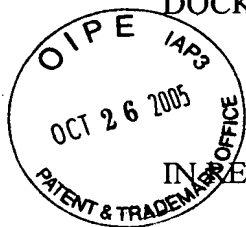


1 Feb

DOCKET NO: 251300US71CIP



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF

:

ROBERT E LUND, ET AL.

: EXAMINER: WOO, J.

SERIAL NO: 10/646,082

:

FILED: AUGUST 22, 2003

: GROUP ART UNIT: 3731

FOR: SURGICAL ARTICLE

:

LETTER

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

Submitted herewith is a European Patent Office Action for the Examiner's  
consideration.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

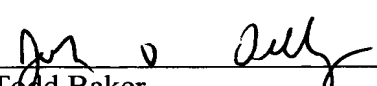
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22.AUG.2005										
CS	K	T								

Telephone numbers:

Primary Examiner  
(substantive examination) -49 89 2399-2603

Formalities Officer / Assistant  
(Formalities and other matters) -49 89 2399-7447

Application No. 01 977 580.8 - 2310	Ref. G2956 Ep	Date 18.08.2005
Applicant American Medical Systems, Inc.		

**Communication pursuant to Article 96(2) EPC**

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(1) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

**of 2 months**

from the notification of this communication, this period being computed in accordance with Rules 78(2) and 83(2) and (4) EPC.

One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (Rule 36(1) EPC).

**Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Article 96(3) EPC).**



Schmierer, U  
Primary Examiner  
for the Examining Division

Enclosure(s): 2 page/s reasons (Form 2906)

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Datum  
Date  
Date 18.08.2005Blatt  
Sheet  
Feuille 1Anmelde-Nr.:  
Application No.: 01 977 580.8  
Demande n°:

The examination is being carried out on the following application documents:

**Description, Pages**

2, 8, 9, 14-20, 25	as originally filed			
7c, 7d	received on	02.05.2003	with letter of	02.05.2003
1, 3, 4, 4a, 5-7, 7a,	received on	09.03.2005	with letter of	08.03.2005
7b, 10-13, 21-24				

**Claims, Numbers**

23, 24	received on	02.05.2003	with letter of	02.05.2003
1-22	received on	09.03.2005	with letter of	08.03.2005

**Drawings, Sheets**

20/21, 21/21	as originally filed			
1/19-19/19	received on	09.03.2005	with letter of	08.03.2005

\*\*\*\*\*

- (1) Among others, the application has been amended by introduction of the new term "support". According to dependent claim 2, the **base member** is an embodiment of the **support** referred to in claim 1. It becomes apparent from said dependency that the term "support" is given a broader meaning than the term "base member". Since the term "support" has not been originally disclosed, claim 1 refers to subject-matter which is broader than the subject-matter as originally disclosed. Thus, the requirements of Art. 123(2) EPC are not met.
- (2) If both,
- (a) the above said objections were overcome and
  - (b) claim 1 referred to the fact that the gaps between respective adjacent tensioning members are open to a common side of the surgical device (in accordance with the applicant's letter of 8.3.05),
- claim 1 would appear being allowable in principle.
- (2.1) The applicant should expect refusal under Art. 97(1) EPC in the course of oral proceedings as requested with letter of 19.04.05 in case the new claims were not in accordance with the requirements of the EPC.
- (3) When filing amended claims the applicant should at the same time bring the

Datum  
Date  
Date 18.08.2005Blatt  
Sheet  
Feuille 2Anmelds-Nr.:  
Application No.: 01 977 580.8  
Demande n°:

description into conformity with the amended claims. Care should be taken during revision, especially of the introductory portion and any statements of problem or advantage, not to add subject-matter which extends beyond the content of the application as originally filed (Article 123(2) EPC).

In order to facilitate the examination of the conformity of the amended application with the requirements of Article 123(2) EPC, the applicant is requested to clearly identify the amendments carried out, irrespective of whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based.

If the applicant regards it as appropriate these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed. Fairly typed replacement pages should also be filed.